

Agency for International Development

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(q) *Incidental services* means the installation or erection of USAID-financed equipment, or the training of personnel in the maintenance, operation and use of such equipment.

(r) *Mission* means the USAID Mission or representative in a cooperating country.

(s) *Non-vessel-operating common carrier* (NVOCC) under Section 3(17) of the Shipping Act of 1984 means a common carrier pursuant to Section 3(6) of such Act that does not operate any of the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean carrier.

(t) *Purchase contract* means any contract or similar arrangement under which a supplier furnishes commodities and/or commodity-related services financed under this part.

(u) *Responsible bidder* is one who has the technical expertise, management capability, workload capacity, and financial resources to perform the work successfully.

(v) *Responsive bid* is a bid that complies with all the terms and conditions of the invitation for bids without material modification. A material modification is a modification which affects the price, quantity, quality, delivery or installation date of the commodity or which limits in any way responsibilities, duties, or liabilities of the bidder or any rights of the importer or USAID as any of the foregoing have been specified or defined in the invitation for bids.

(w) *Schedule B* means the "Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States" issued and amended from time to time by the U.S. Bureau of the Census, Department of Commerce and available as stated in 15 CFR 30.92.

(x) *Source* means the country from which a commodity is shipped to the cooperating country, or the cooperating country if the commodity is located therein at the time of the purchase. Where, however, a commodity is shipped from a free port or bonded warehouse in the form in which received therein, source means the country from which the commodity was shipped to the free port or bonded warehouse.

(y) *State* means the District of Columbia or any State, commonwealth, territory or possession of the United States.

(z) *Supplier* means any person or organization, governmental or otherwise, who furnishes commodities and/or commodity-related services financed under this part 201.

(aa) *Supplier's Certificate* means Form AID 282 "Supplier's Certificate and Agreement with the Agency for International Development," including the "Invoice and Contract Abstract" on the reverse of such form (which appears as appendix A to this part 201), or any substitute form which may be prescribed in the letter of commitment or other pertinent implementing document.

(bb) *United States* means the United States of America, any State(s) of the United States, the District of Columbia, and areas of U.S. associated sovereignty, including commonwealths, territories and possessions.

(cc) *Vessel operating common carrier* (VOCC) means an ocean common carrier pursuant to section 3(18) of the Shipping Act of 1984 which operates the vessel by which ocean transportation is provided.

§ 201.02 Scope and application.

(a) The appropriate implementing documents will indicate whether and the extent to which this part 201 shall apply to the procurement of commodities or commodity-related services or both. Whenever this part 201 is applicable, those terms and conditions of this part will govern which are in effect on the date of issuance of the direct letter of commitment to the supplier; if a bank letter of commitment is applicable, the terms and conditions govern which are in effect on the date of issuance of an irrevocable letter of credit under which payment is made or is to be made from funds made available under the Act, or, if no such letter of credit has been issued, on the date payment instructions for payment from funds made available under the Act are received by the paying bank.

(b) The borrower/grantee is responsible for compliance with the applicable provisions of this part by importers

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and suppliers and for assuring that importers and suppliers are informed of the extent to which this part applies.

(c) Unless otherwise indicated, references in this part 201 to subparts or to sections relate to subparts or sections of this part 201.

§ 201.03 OMB approval under the Paperwork Reduction Act.

(a) OMB has approved the following information collection and record-keeping requirements established by this part 201 (OMB Control No. 0412-0514, expiring July 31, 2000):

Sec.
201.13(b)(1)
201.13(b)(2)
201.15(c)
201.31(f)
201.31(g)
201.32(b)
201.32(c)
201.51(c)
201.52(a)
201.74

(b) USAID will use the information requested in these sections to verify compliance with statutory and regulatory requirements and to assist in the administration of USAID-financed commodity programs. The information is required from suppliers in order to receive payment for commodities or commodity-related services. The public reporting burden for this collection of information is estimated to average a half hour per response, including the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Procurement, Policy Division (M/OP/P), U.S. Agency for International Development, 1300 Pennsylvania Avenue, Washington, DC 20523-7801, and the Office of Management and Budget, Paperwork Reduction Project (0412-0514), Washington, DC 20503.

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Subpart B—Conditions Governing the Eligibility of Procurement Transactions for USAID Financing

§ 201.10 Purpose.

This subpart sets forth requirements for USAID financing applicable to transactions for the procurement of commodities and/or commodity-related services.

§ 201.11 Eligibility of commodities.

To qualify for USAID financing, a commodity procurement transaction shall satisfy the following requirements:

(a) *Description and condition of the commodity.* The commodity shall conform to the description in the implementing document. Unless otherwise authorized by USAID/W in writing, the commodity shall be unused, and may not have been disposed of as surplus by any governmental agency.

(b) *Source.* The authorized source for procurement shall be a country or countries authorized in the implementing document by name or by reference to a USAID geographic code. The source and origin of a commodity must be an authorized source country. The applicable rules on source, origin and nationality for commodities and commodity-related services are in subparts (B), (C), and (F) of part 228 of this chapter.

(c) *Date of shipping documents.* The documents required as evidence of shipment under § 201.52(a)(4) shall show that the date of shipment was within the shipping period, if any, specified in the implementing document.

(d) *Medium of transportation.* Shipment shall not be effected:

(1) By a transportation medium owned, operated or under the control of any country not included within USAID Geographic Code 935; or

(2) Under any ocean or air charter which has not received prior approval by USAID/W, Office of Procurement (Transportation Division).

(e) *Marine insurance.* In accordance with the provisions of § 228.23 of this chapter, USAID may require that any USAID-financed commodity shipped to